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**Re: Comments on Letter of Authorization Requested by the U.S. Navy for  
SURTASS LFA Activities**

Dear Ms. Wieting:

The Marine Mammal Center offers these comments for your consideration in deciding whether to grant a Letter of Authorization to the U.S. Navy for their SURTASS LFA program, or in deciding what terms or restrictions should be included in a LOA.

**MITIGATION MEASURES**

We were pleased to see the mitigation measures adopted since the initial proposals. Not operating in polar regions, or when a marine mammal is within 1km of the vessel, or operating greater than 180dB within 22km of any coastline (including islands or offshore biologically important areas (OHIA's)), significantly reduce the possibility of harm. However, this does not mean that all safety questions have been resolved. We believe accidents can happen causing a failure to follow all the mitigation procedures and that injury to marine mammals could occur even if all these procedures were followed.

**COORDINATION WITH STRANDING EVENTS**

The Marine Mammal Center, as a member of the NMFS stranding network, responds to marine mammal stranding events, primarily along the California coast, performs necropsies and secures samples for analysis. Thus, we are quite concerned about the coordination of naval activities with response to stranding events.

The EIS at section 2.4.2.5 (p. 2-27) states: "The Navy would also coordinate with the principal marine mammal stranding networks to correlate analysis of any whale strandings with SURTASS LFA sonar operations." However, as discussed below, we are not sure what this "coordination" would entail.

This coordination is expanded in the comments to reviewers in the EIS. Comment 2-4.9 (p. 10-61) replies to a query as to how the Navy would report impacts of their operation. The response states that any response would be annual. Furthermore, it states that it would only report upon marine mammals detected within the 180-dB mitigation zone. Comment 5-3.7 (p. 10-165) responded to a suggestion that a protocol for any injured animal should be established. The response is that since the probability for injury is negligible, an injury protocol is not deemed necessary.

Further discussion of this topic occurs in the NMFS Notice of Proposed Rulemaking (65 Fed. Reg. 15375 et. Seq.). NMFS states in response to Comment 19 (at p. 15380): "... the Navy plans to coordinate with principal world-wide marine mammal stranding networks and report any correlation's between SURTASS LFA sonar operations and stranding events to NMFS." However, this appears to refer to the annual report. Thus, the response to Comment 36 (at p. 15383) states that all the reports will be annual. This is amplified in response to Comment 41 (at p. 14383) stating: "... the Navy has stated that the data from the LTM program cannot be available in real-time because of post-mission analysis requirements including declassification of sensitive national security information. In its application, the navy has proposed that this information be provided to NMFS annually."

While it is not clear what all these comments mean, if it is believed by the Navy that their only coordination with stranding networks is for preparation of their annual report, the LOA should be clearer in this respect. We can understand the Navy's concern for classification requirements; however, there must be a process for real-time communication between Navy and NMFS. It is not as if this SURTASS LFA operation is a stealth operation. It is noisy and in the open ocean and can be detected by any interested nation from great distances.

One of the criticisms of the research into the effects of Navy activities in the Mediterranean on cetacean strandings in 1997, was in its design. Part of the design problem was that there was no real-time knowledge of naval operations and no survey of cetacean populations in the activity area; although the relationships between operations and strandings were suggestive of an effect on cetaceans, they were not conclusive. This lack of conclusiveness was not due to research designs but lack of real-time information from NATO.

Because there is so much uncertainty about the effect of noise on marine mammals, the belief of the Navy that their operations will have a negligible effect on these animals and that no harm will occur, cannot be relied upon. Accidents can happen causing a failure to follow all of the mitigation procedures, harm may occur at levels below 180-dB and/or greater than 1Km, and an animal may not be detected even after great efforts using HFM3 sonar.

We recommend that all operations under the LFA be considered research opportunities. We recommend that in addition to screening within the 1Km zone that records of cetacean sightings for a period of hours before and after the test be kept to determine resident cetacean population levels. We recommend that there be coordination, on a real-time basis, with a NMFS official with appropriate classification level so that the official can coordinate with stranding networks to ascertain if there are any strandings, even at great distances away, and that appropriate necropsies can be performed.

The proposed operation involves most areas of open ocean around the world and many countries do not have well-developed stranding networks. We recommend that following each navel exercise, for a period of some days, real-time information be provided to appropriate stranding network coordinators and that the Navy also be responsible for coastline surveys for stranded or distressed marine mammals especially in those areas where there are not well-developed networks.

#### NOISE AND MARINE MAMMALS

We leave it to others with more expertise to analyze the technical aspects of the Navy program as it relates to the possible injury to marine mammals due to the sound production of SURTASS LFA. We can state that more research on the effect of noise on marine mammals is clearly needed. Whether this particular LOA is issued should not lessen the importance of this research by the Office of Naval Research and others. If a LOA is issued it should be seen not as a final event but as part of a continuing process subject to modification or termination as our knowledge grows.

The Navy in its EIS (vol. I, Sec. 3.2.5.1, pp. 45-47) recognizes that naval operations may, on occasion affect Beaked whales (*Mesoplodon sp.*). The EIS discusses strandings in the Mediterranean and the Bahamas. As to the stranding events in the Mediterranean, the EIS quotes the Bioacoustics Panel convened by NATO that concluded: "Behavioral responses to acoustic transmission must be taken into consideration as a possible cause for strandings: therefore, acoustic characteristics that induce behavioral changes or physical damage to marine animals should be determined." (p. 3.2-46)

The EIS discussing the research papers on Mediterranean events states: "These papers raise concern about the effects of noise on beaked whales, but they provide no guidance as to what exposure may be dangerous and which are safe." (p. 3.2-46) However, the EIS fails to state what it proposes to do about this uncertainty and seems not to take it into account in their permit request.

From Griffin, B.J.      Re: Comments on Letter of Authorization Requested by the U.S. Navy  
for SURTASS LFA Activities      Page 4 05/14/01

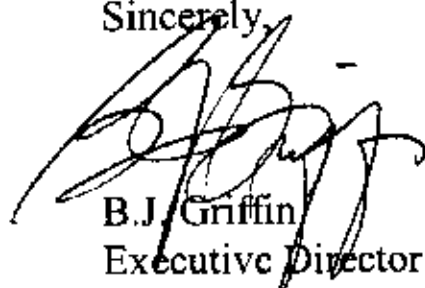
As to the Bahamas event, they state that the final report has not yet been published on that stranding event. The discussion of that event concludes (at p. 3.2-47):

*Current evidence would suggest that while beaked whales may be sensitive to frequencies above SURTASS LFA sonar, there is little evidence that they are more sensitive to LFA sounds than the species selected as subjects for the LFS SRP [scientific research panel]. Thus, even if the investigation ultimately concludes that the mid-frequency sonars in use during the transit caused or contributed to the strandings, such a conclusion would not appear to present any significant new information relevant to the proposed deployment of SURTASS LFAS sonar.*

Thus, we disagree that the findings of the SRP should have no effect on the SURTASS LFA, LOA. In fact, it may be that if it is determined that "regular" naval operations damage beaked whales at certain frequencies or due to unique sea floor topography then it should affect the LOA and might even cause an examination of other "normal" operations.

We agree with those that recommend not issuing the LOA until the Bahamas event has been thoroughly analyzed. If a LOA is issued it should be conditional based on increasing knowledge. So as to ensure that this issue is studied, we also recommend that any LOA issued should contain a condition that the ONR continue at current levels its research activities into the effect of noise on marine mammals.

Sincerely,



B.J. Griffin  
Executive Director